



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

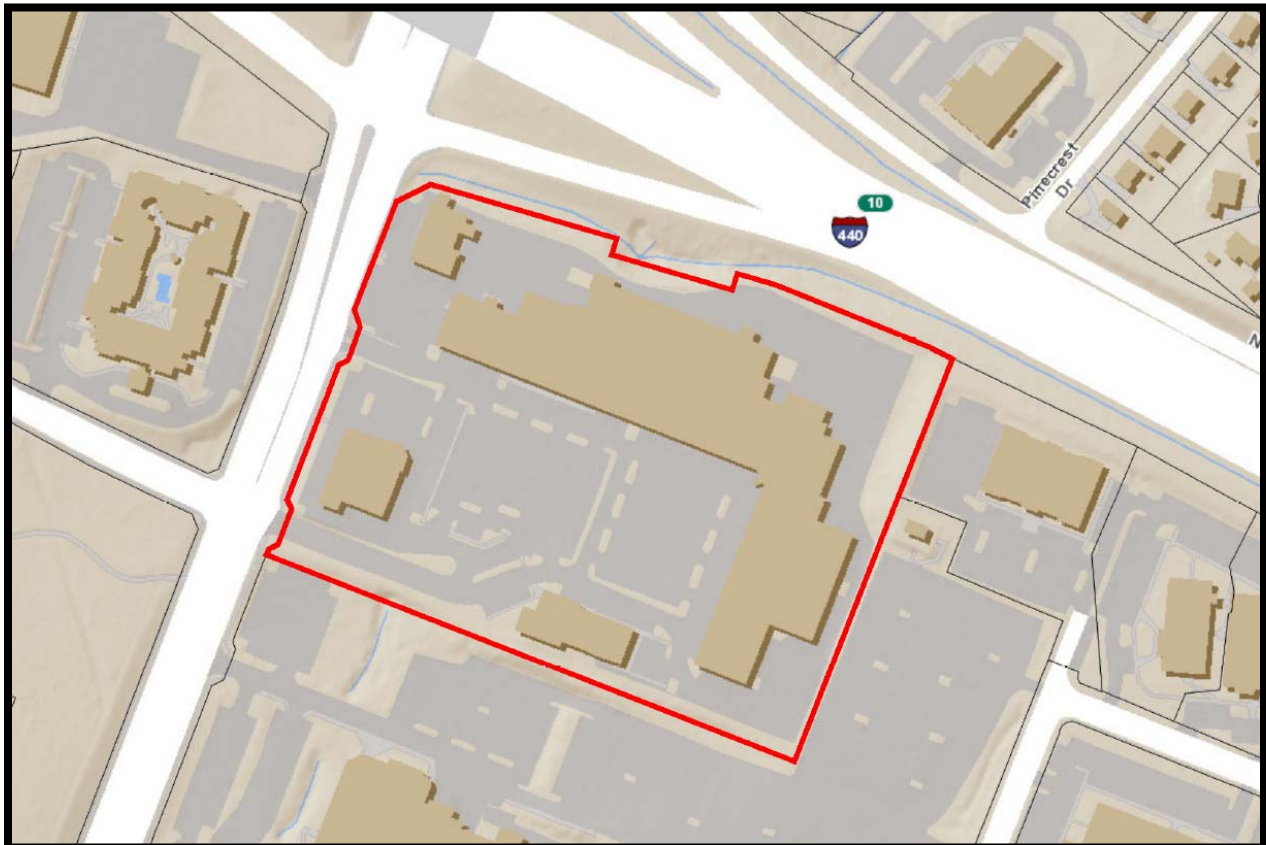
Case File: A-39-17

Property Address: 3032 Wake Forest Road

Property Owner: Holly Park Property, LLC

Project Contact: Michael Birch

Nature of Case: A request for a variance to Sections 9.1.10. and 12.2 of the Unified Development Ordinance to permit the removal of 16 or more trees with a DBH of 3 inches within a continuous 12-month period which results in the removal of 40 trees within a continuous 12-month period on a 13.93 acre site zoned Industrial Mixed-Use-3-Parking Limited and Special Highway Overlay District-2 and located at 3032 Wake Forest Road.



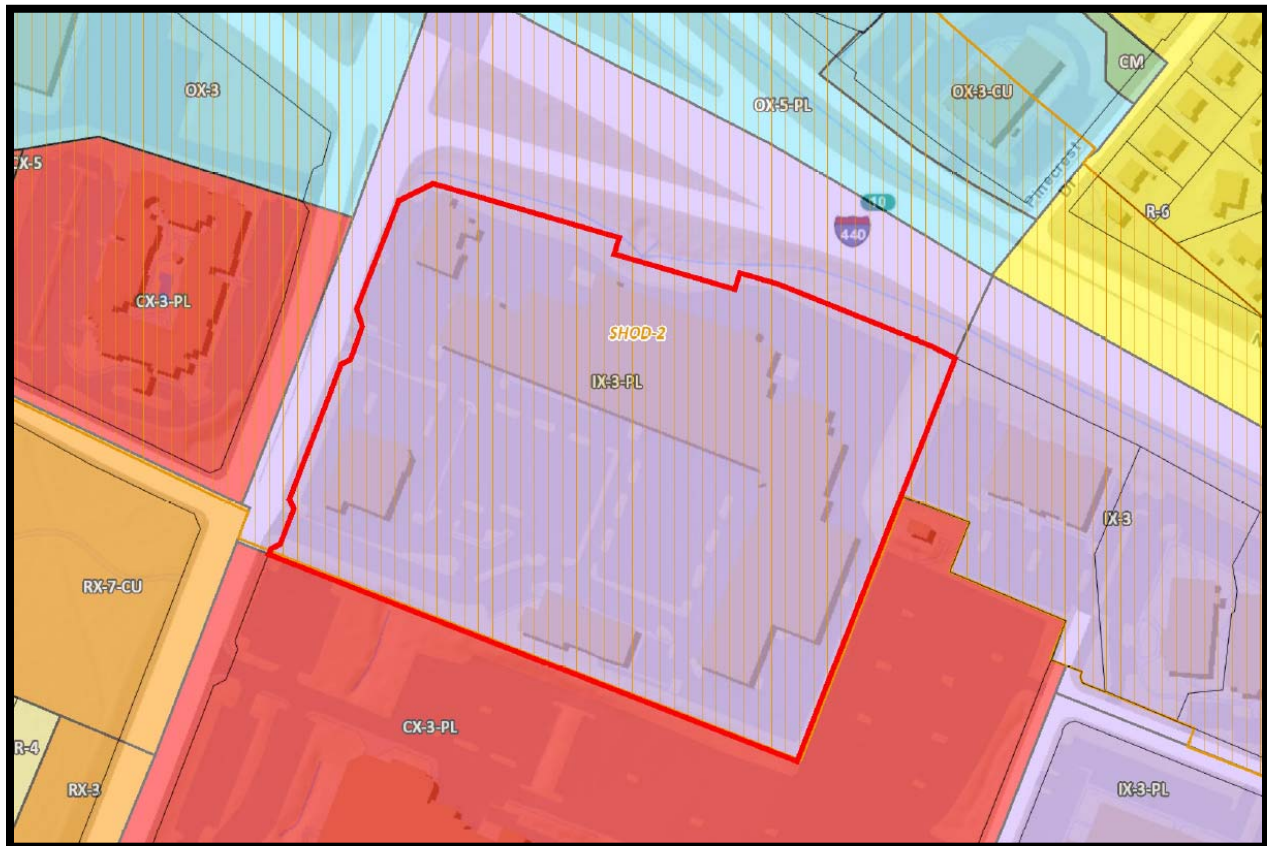
3032 Wake Forest Road – Location Map

To BOA: 3-13-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING

DISTRICTS: Industrial Mixed-use-3 Parking Limited and Special Highway Overlay District-2



3032 Wake Forest Road – Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions

that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Zoning District Standards: The subject property is zoned Industrial Mixed-Use-3-Parking Limited and Special Highway Overlay District-2.

Section 9.1.10. Lots Without Recorded Tree Conservation Areas

A. Applicability

1. Any tree disturbing activity, except a minor tree removal activity, on sites 2 acres and larger in size that do not have an established or recorded tree conservation area shall meet the requirements of this section.
2. Nothing in this section shall prevent the otherwise lawful grading and installation of streets, utilities or other improvements shown on an approved subdivision plan or site plan.
3. All applicable laws, including soil erosion and sedimentation control and tree protection regulations, must be obeyed. No champion tree, including its critical root zone, is subjected to any tree disturbing activity.

B. Tree Protection Plan Required

1. A tree protection plan must be approved by the Planning and Development Officer for all applicable tree protected areas.
2. Tree protection fences must be in place prior to the issuance of any City permit and prior to engaging in any tree disturbing activity.

C. Perimeter Buffers

1. No tree disturbing activity, except a minor tree removal activity, shall occur within a 32-foot wide perimeter buffer when the adjoining or adjacent property is vacant.
2. No tree disturbing activity, except a minor tree removal activity, shall occur within a 65-foot wide perimeter buffer when the adjacent property is a roadway other than a Thoroughfare or is not vacant.
3. No tree disturbing activity, except a minor tree removal activity, shall occur within a 50-foot wide perimeter buffer when the adjoining or adjacent property is a Thoroughfare or higher designation roadway.
4. No trees 10 inches DBH or larger can be removed, with the exception that a maximum of 5 trees between 10 inches and 22 inches DBH may be removed within the 32-foot wide buffer, the 65-foot wide buffer or 50-foot wide Thoroughfare buffer, within a continuous 5-year period, with a permit issued by the Planning and Development Officer, provided that such tree removal would not diminish future tree conservation areas that may be required, all as shown on a report submitted to Planning and Development.

5. In lieu of protecting perimeter buffers, tree conservation areas may be designated in conjunction with an approved development plan, or an approved forest management plan, provided that all tree conservation areas are shown on recorded plats.

D. Forest Management Activity Allowed

1. Forest management activity is allowed in the perimeter buffers provided that the landowners first record with the local County Register of Deeds a covenant running with and binding the land stating: "That forest management operations were initiated within regulated perimeter buffers of the real property on _____ (date and year) and that pursuant to State Law, no building permit, site plan or subdivision plan will be approved by the local governing authority for a period of 5 years following harvesting completion date."

2. A copy of this covenant recorded with the local County Register of Deeds shall be provided to the Planning and Development.

3. The allowable hours of operation any given day are between 7 AM and 8:30 PM, other than emergency work for the preservation of public health or safety.

4. Access ways through perimeter buffers shall not exceed 25 feet in width and all construction entrances of the access ways must be constructed in accordance with the latest City "Guidelines for Land-Disturbing Activities" or latest State of North Carolina "Erosion and Sediment Control Planning and Design Manual", whichever is more stringent.

5. At least 1 access way shall be permitted and additional access ways may be allowed provided such additional access ways are justified by a North Carolina registered forester and additional access ways fronting the same roadway are spaced at least 1,000 feet apart.

—.

E. Violations

1. A violation of this section, where unlawful tree disturbing activity has occurred and trees and stumps are absent, shall subject the violator to a civil penalty equal to \$1,000 for the first tree plus 35 cents of every square foot of unlawfully disturbed perimeter buffer.

2. Where trees or stumps are present after unlawful tree disturbing activity has occurred, the civil penalty shall instead be calculated as \$1,000 for the first tree plus \$100 per diameter inch for any other tree or stump 3 inches diameter and larger.

3. No civil penalty shall exceed 1/3 of the current land tax value of the entire site.

4. The penalty shall be processed as set forth in *Sec. 10.4.2*. In addition to this civil penalty, within the unlawfully disturbed perimeter buffer, the land owner shall install one 2-inch caliper tree for each 200 square feet of all of the unlawfully disturbed perimeter buffer; provided that, in R-1 and R-2 no more than 15% of the acreage of the entire tract and no more 10% of the acreage of the entire tract of all other districts shall be planted.

5. Prior to any replanting, the Planning and Development Officer shall first approve a replacement planting and maintenance plan.

6. The replanting areas shall be designated as tree conservation areas on plats with delineated metes and bounds descriptions recorded with the local County Register of Deeds, however, the replacement planting areas shall not count toward the tree conservation percentage requirements of *Sec. 9.1.3*. Following the recording of this plat, no tree disturbing activity shall take place within the designated tree conservation areas.

Article 12.2 Defined Terms

Tree Disturbing Activity Any activity that results in one or more of the following:

1. The movement of earth, compaction of earth, chemical or physical alteration of earth or a change in the

existing soil cover (both vegetative and non vegetative) or the existing soil topography in the critical root zone of a tree or within any tree conservation area, including but not limited to: chemical application, clearing, grading, filling, excavation, stabilization of structures and road or walkway construction

2. Chemical or physical alteration of a tree in any way that diminishes its health and vigor, including but not limited to removal, cutting, root pruning, branch pruning, topping, bark scraping and application of chemical or biological agents. 3. The placement within the critical root zone or within any tree conservation area of any permanent or temporary encroachment, including but not limited to application of impervious surfaces, storage of equipment, materials, earth parking or circulation of vehicles or equipment.

Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (If more space is needed, submit addendum on separate sheet): See attached Exhibit A.	Transaction Number A-39-17
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.	

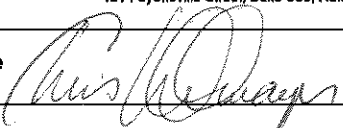
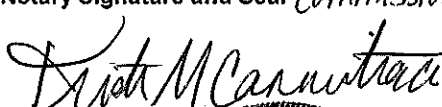
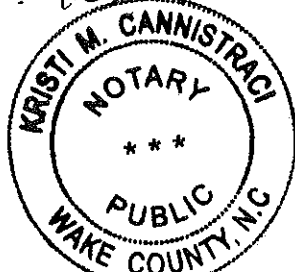
GENERAL INFORMATION		
Property Address 3032 Wake Forest Road	Date 2/8/17	
Property PIN 1715-24-2768	Current Zoning IX-3-PL w/SHOD-2	
Nearest Intersection Wake Forest Road and Wake Towne Drive	Property size (In acres) 13.93 acres	
Property Owner Holly Park Property, LLC	Phone	Fax
Owner's Mailing Address PO Box 790830, San Antonio, TX 78279	Email	
Project Contact Person Michael Birch, Morningstar Law Group	Phone 919.590.0388	Fax
Contact Person's Mailing Address 421 Fayetteville Street, Suite 530, Raleigh, NC 27601	Email mbirch@morningstarlawgroup.com	
Property Owner Signature 	Email	
Notary Sworn and subscribed before me this 8 th day of February, 2017	Notary Signature and Seal  Commission Expires 04/08/19 	

Exhibit A

Petitioner requests the following variance:

1. A variance to UDO section 9.1.10. and UDO section 12.2. "Minor Tree Removal Activity" to permit the removal of 16 or more trees with a DBH of 3 inches or greater within a continuous 12-month period. The request is to permit the removal of a total of 40 trees within a continuous 12-month period. The trees proposed to be removed are shown on the exhibits included with this petition. The purpose of this request is to allow for the removal of trees related to the extension of Wake Towne Drive by the developer of the property to the south.

WAKE FOREST MIXED USE

PRELIMINARY SITE PLAN
RALEIGH, NORTH CAROLINA

ITB HOLDINGS LLC
PO BOX 2152
CHAPEL HILL, NORTH CAROLINA 27615

PORT

RELATIONS:



McADAMS

TREE CONSERVATION AREA CALCULATIONS

271E AREA: 22.44 AC
 TOTAL ROW DEDICATION: 2.30 AC
 NET 271E AREA: 20.14 AC
 REQUIRED TCA: 100 (2.02 AC)
 PROVIDED TCA: 946 (1.13 AC)

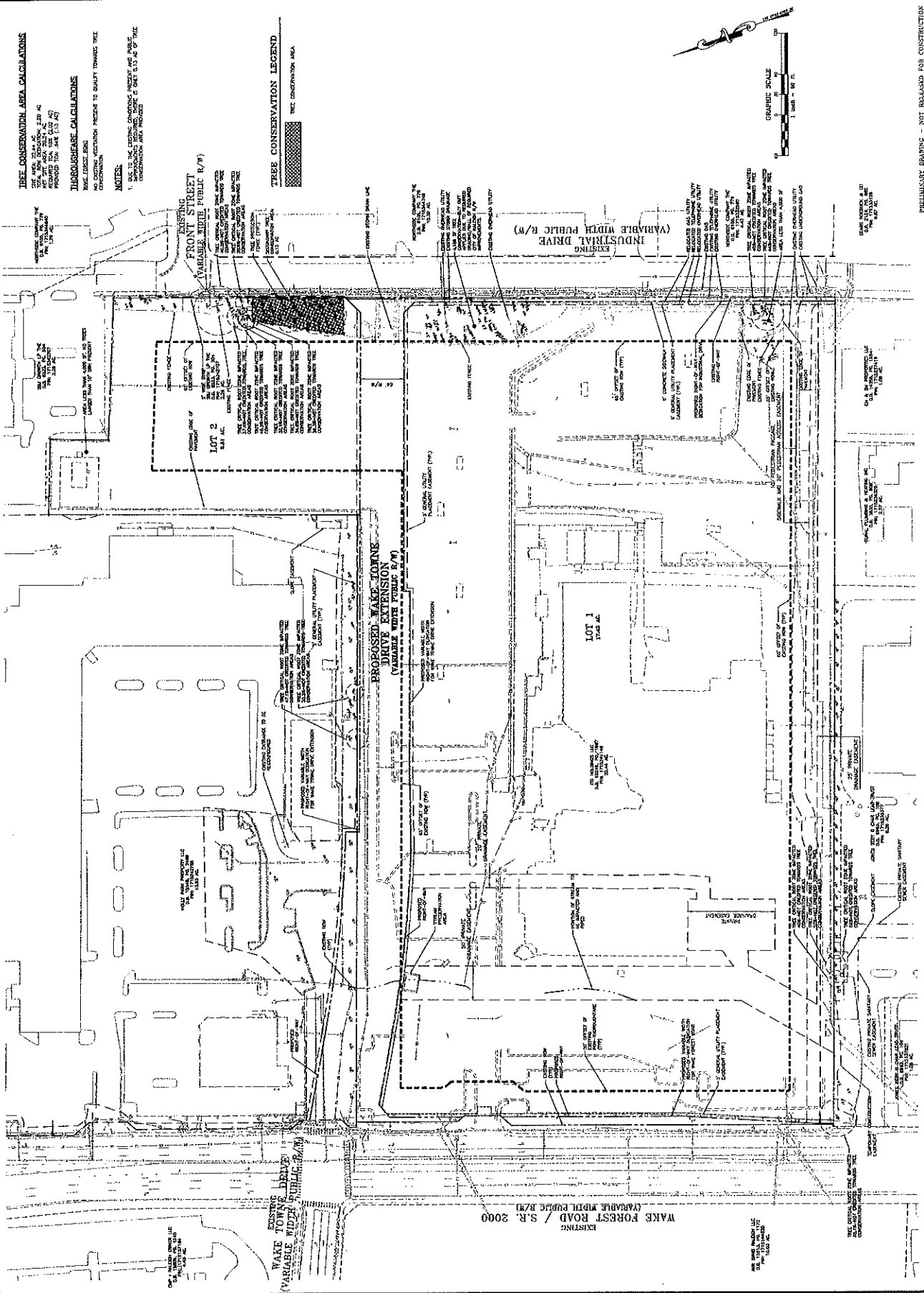
THOROUGHFARE CALCULATIONS

WAKE FOREST ROAD
NO EXISTING VEGETATION PRESENT TO QUALIFY TOWARDS TREE
CONSERVATION

NOTES:

1. DUE TO THE EXISTING CONDITIONS PRESENT AND PUBLIC SUPPLEMENTS REQUIRED, THERE IS ONLY 0.3 AC OF TRAIL CONSERVATION AREA PROVIDED

TREE CONSERVATION LEGEND

[illegible]

HOLLY PARK PROPERTY, LLC
 DLS 15876-00-2469
 PHS 171524-0008
 11.33 AC.

PROPOSED WAKE-TOWNE DRIVE EXTENSION (VARIABLE WIDTH PUBLIC R/W)

EASMENTS:

- TREE CRITICAL ROOT ZONE IMPACTED 47.5'-ANT CREDITED TOWARDS TREE CONSERVATION AREA
- TREE CRITICAL ROOT ZONE IMPACTED 47.5'-ANT CREDITED TOWARDS TREE CONSERVATION AREA
- SLOPE EASEMENT
- GENERAL UTILITY PLACEMENT EASEMENT (TYP.)
- PROPOSED VARIABLE WIDTH RIGHT-OF-WAY DESIGNATION FOR WAKE-TOWNE DRIVE EXTENSION
- PROPOSED VARIABLE WIDTH RIGHT-OF-WAY DESIGNATION FOR WAKE-TOWNE DRIVE EXTENSION
- EXISTING ENTRANCE TO BE RECONFIGURED
- PROPOSED VARIABLE WIDTH RIGHT-OF-WAY DESIGNATION FOR WAKE-TOWNE DRIVE EXTENSION
- EXISTING RCH (TYP.)
- PROPOSED RIGHT-OF-WAY STREAM PRESERVATION AREA
- 65' OFFSET OF EXISTING HOV (TYP.)
- 20' PRIVATE DRAINAGE EASEMENT
- 50' PRIVATE DRAINAGE EASEMENT
- 5' GENERAL UTILITY PLACEMENT EASEMENT

**PROPOSED WAKE-TOWNE
DRIVE EXTENSION
(VARIABLE WIDTH PUBLIC R/W)**

5' GENERAL UTILITY
PLACEMENT EASEMENT

PROPOSED VARIABLE WIDTH EIGHT-OF-SEVEN DEDICATION FOR WAKE TOWNE DRIVE EXTENSION

EXISTING ROOM (TYPE)

—STREAM
RIDGE-OF-WAY

20' PRIVATE
DRAINAGE EASEMENT

23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1041 1042 1043 1044 1045 1046 1047 1048 1049 1050 1051 105

$$A \otimes B = \sum_{j=1}^n A_j \otimes B_j$$

ITB HOLDINGS LLC
PO BOX 2152
CHAPEL HILL NC 27515-2152

HOLLY PARK PROPERTY LLC C/O
PROPERTY TAX DEPARTMENT
PO BOX 790830
SAN ANTONIO TX 78279-0830

NORTHSIDE MIDTOWN LLC
1207 FRONT ST STE 100
RALEIGH NC 27609-7892

